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EXAMINER
NGUYEN, HANH N

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 01/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/941,939	Applicant(s) NORBERT SCHIPKE	
	Examiner HANH NGUYEN	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-11 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Satoh et al.

Regarding claim 1, Satoh et al. show a vibrator for use in devices for vibration therapy (intended use, patentable weight not given) having an electric motor (18 in Fig. 3) and an unbalanced mass (57) which is driven peripherally by it, wherein the electric motor is an external-rotor motor with an outer housing (43) which is driven peripherally around a motor axis and with an inner stator (40) which has a motor winding (46), and wherein the outer housing has the unbalanced mass.

2. Claim 6 is rejected under 35 U.S.C 102(b) as being anticipated by Cheng.

Regarding claim 6, Cheng shows a device for vibration therapy comprising at least one vibrator (22 in Fig. 2) with an electric motor (222) and with an unbalanced

mass driven peripherally by it, wherein the device is mounted on an outer surface of a bathtub (Fig. 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 2,3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al. in view of Spurlin.

Regarding claim 2, Satoh et al. show all of the limitations of the claimed invention except showing the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate. The vibrator disclosed by Satoh et al. has the electric motor attached to a vibrator plate (9 in Fig. 4) such that the motor axis forms an 90° angle with surface sides of the vibrator plate, inherently the motor only causes vibration in the vibrator plate in one direction.

However, Spurlin shows the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface

sides of the vibrator plate (1 in Fig. 1) for the purpose to create vibration on both horizontal and vertical direction (Col. 2, lines 65-68).

Since Satoh et al. and Spurlin are in the same field of endeavor, the purpose disclosed by one inventor would have been recognized in the pertinent art of the other.

It would have been obvious at the time of the invention was made to a person having an ordinary skill in the art to form the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate as taught by Spurlin for the purposes discussed above.

Regarding claim 3, Spurlin also shows the vibrator as wherein the electric motor is held in a cover (5 in Fig. 1) which is connected to the vibrator plate for the purpose to carry the vibration from the motor to the vibrator plate.

4. Claims 4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuoka in view of Satoh et al.

Regarding claim 4, Fukuoka shows a device for vibration therapy (intended use, patentable weight not given), comprising at least one vibrator (portion includes motor 7 and frame 12 in Fig. 1) which is provided on a backrest element (3) and which has an electric motor (7) which has an unbalanced mass (16). The vibration device disclosed by Fukuoka comprised an electric motor wherein the shaft carries an unbalanced weight for the purpose to generate vibration.

However, Satoh et al. disclose the vibrator wherein the electric motor is an external-rotor motor with an outer housing (43 in Fig. 3) which is driven peripherally

around a motor axis and with an inner stator (40) which has the motor winding (46), and wherein the outer housing has the unbalanced mass (57) for the purpose to generate vibration.

Since Fukuoka and Satoh et al. are in the same field of endeavor, the purpose disclosed by one inventor would have been recognized in the pertinent art of the other.

It would have been obvious at the time of the invention was made to a person having an ordinary skill in the art to form the vibrator wherein the electric motor is either a motor with an unbalanced weight carried by the shaft or an external-rotor motor with an outer housing which is driven peripherally around a motor axis and with an inner stator which has the motor winding, and wherein the outer housing has the unbalanced mass as taught by Satoh et al. for the purposes discussed above.

Regarding claim 5, Fukuoka also shows the device wherein the at least one vibrator has a vibrator plate (12 in Fig. 9) attached directly to the back element of a backrest, and wherein the back element has upholstery (2) attached thereto.

5. Claims 10,11are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuoka in view of Satoh et al. as respectively applied to claim 5 above, and further in view of Spurlin.

Regarding claim 10, Fukuoka and Sato et al. show all of the limitations of the claimed invention except showing the device wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with the surface sides of the vibrator plate. The vibrator disclosed by Fukuoka and Sato et al. has motor

axis parallel to the surface sides of vibrating plate and inherently cause vibration in vertical direction.

However, Spurlin shows the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate (1 in Fig. 1) for the purpose to create vibration on both horizontal and vertical direction (Col. 2, lines 65-68).

Since Fukuoka,Satoh et al., and Spurlin are in the same field of endeavor, the purpose disclosed by one inventor would have been recognized in the pertinent art of the other.

It would have been obvious at the time of the invention was made to a person having an ordinary skill in the art to form the device wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate as taught by Spurlin for the purposes discussed above.

Regarding claim 11, Spurlin also shows the vibrator as wherein the electric motor is held in a cover (5 in Fig. 1) which is connected to the vibrator plate for the purpose to carry the vibration from the motor to the vibrator plate.

6. Claim 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Satoh et al.

Regarding claim 7, Cheng shows all of the limitations of the claimed invention except showing the device wherein the electric motor is made as an external-rotor motor with an outer housing which is driven peripherally around a motor axis and with

an inner stator which has a motor winding, and wherein the outer housing has the unbalanced mass. The motor by Cheng comprised an electric motor wherein the shaft carries an unbalanced weight for the purpose to generate vibration.

However, Satoh et al. diclose the vibrator wherein the electric motor is an external-rotor motor with an outer housing (43 in Fig. 3) which is driven peripherally around a motor axis and with an inner stator (40) which has the motor winding (46), and wherein the outer housing has the unbalanced mass (57) for the purpose to generate vibration.

Since Satoh et al. and Cheng are in the same field of endeavor, the purpose disclosed by one inventor would have been recognized in the pertinent art of the other.

It would have been obvious at the time of the invention was made to a person having an ordinary skill in the art to form the vibrator wherein the electric motor is either a motor with an unbalanced weight carried by the shaft or an external-rotor motor with an outer housing which is driven peripherally around a motor axis and with an inner stator which has the motor winding, and wherein the outer housing has the unbalanced mass as taught by Satoh et al. for the purposes discussed above.

7. Claims 8,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Spurlin.

Regarding claim 8, Cheng shows all of the limitations of the claimed invention except showing the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate. The vibrator disclosed by Satoh et al. has the electric motor attached to a

vibrator plate (9 in Fig. 4) such that the motor axis forms an 90° angle with surface sides of the vibrator plate, inherently the motor only causes vibration in the vibrator plate in one direction.

However, Spurlin shows the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate (1 in Fig. 1) for the purpose to create vibration on both horizontal and vertical direction (Col. 2, lines 65-68).

Since Cheng and Spurlin are in the same field of endeavor, the purpose disclosed by one inventor would have been recognized in the pertinent art of the other.

It would have been obvious at the time of the invention was made to a person having an ordinary skill in the art to form the vibrator wherein the electric motor is attached to a vibrator plate such that the motor axis includes an angle less than 90° with surface sides of the vibrator plate as taught by Spurlin for the purposes discussed above.

Regarding claim 9, Cheng also shows the device wherein the electric motor is held in a cover which is connected to the vibrator plate (the box that covers the motor in Fig. 2).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh N Nguyen whose telephone number is (703) 305-3466. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner 's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

HNN

January 21, 2002